

“The Constitution as an Inspired and Inspiring Document”

Scriptural sources and related sources:

Mosiah 29.

Doctrine and Covenants 98:4-10.

Doctrine and Covenants 134.

Doctrine and Covenants 101:77-78 (regarding rights, etc.).

Doctrine and Covenants 101:79.

Doctrine and Covenants 109:59.

LDS Perspectives on the Law course entitled, “The Constitution of the United States as an Inspired Document.”

Scholarly sources:

Neil H. Cogan, *CONTEXTS OF THE CONSTITUTION* (1999); Michael J. Perry, *THE CONSTITUTION AND THE COURTS* (1994); Robert Bork, *THE TEMPTING OF AMERICA: THE POLITICAL SEDUCTION OF THE LAW* (1989); Rodney K. Smith, *PUBLIC PRAYER AND THE CONSTITUTION: A CASE STUDY IN CONSTITUTIONAL INTERPRETATION* (1987); H. Jefferson Powell, *The Original Understanding of Original Intent*, 98 *Harv. L. Rev.* 885 (1985).

- I. The Constitution will “hang by a *brittle* thread.” What did the Prophet Joseph mean when he made this statement?
- II. The framing and ratifying of the Constitution (an examination of historical figures and the history – the miracle at Philadelphia – a time of principle and pragmatism)
- III. “A Time for All Seasons” and the importance of the rule of law. What does it mean to say that the Constitution is the Law of the land? Who determines the legal meaning of the Constitution? How do they make that determination?
- IV. Who determines the meaning of the Constitution? The Court, the tyranny of the majority and the counter-majoritarian problem – separate but shared powers/checks and balances.
- V. How should the Constitution be interpreted to determine its legal meaning and effect?
 - A. English system – common law/unwritten Constitution.
 - B. Textualism: the limits of the text (general textual material and the need to decide particular cases/problems) – defer or look elsewhere (legislature, executive, states).
 - C. Originalism – the limits of history (defer or look elsewhere).
 - D. Other theories – rights based, moral theories, political theories.
- VI. Our role in “befriending” the Constitution – a look at scriptures and guidance from the Brethren.
- VII. Conclusion.